

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DJO GLOBAL, INC.	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 4:22-cv-369
	§	
NATIONAL UNION FIRE INSURANCE	§	
COMPANY OF PITTSBURGH, PA,	§	
	§	
<i>Defendant.</i>	§	

**NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH,
PA’S NOTICE OF REMOVAL**

Defendant National Union Fire Insurance Company of Pittsburgh, PA (“National Union”) files this Notice of Removal of Case No. 22-2639-431, *DJO Global, Inc. v. National Union Fire Insurance Company of Pittsburgh, PA*, in the 431st Judicial District Court of Denton County, Texas (“State Court Action”) to the United States District Court for the Eastern District of Texas, Sherman Division.

I. Procedural History

1. On April 4, 2022, Plaintiff DJO Global, Inc. (“DJO”) filed its Original Petition against National Union (“Original Petition”) in the State Court Action.¹
2. National Union was served with the Original Petition on April 6, 2022.²
3. National Union filed its Original Answer on April 29, 2022.³

¹ A true and correct copy of the Original Petition is attached as **Exhibit A**.

² A true and correct copy of the citation showing service of the Original Petition on National Union is attached as **Exhibit B**.

³ A true and correct copy of National Union’s Original Answer is attached as **Exhibit C**. A true and correct copy of the State Court Action docket is attached as **Exhibit D**.

II. Basis for Removal: Diversity Jurisdiction

4. This action is removable pursuant to 28 U.S.C. §§ 1332(a), 1441(a). Pursuant to § 1332(a), federal district courts have original jurisdiction over civil actions where the matter in controversy exceeds \$75,000 and where the action is between citizens of different States. 28 U.S.C. § 1332(a)(1).

- a. Plaintiff DJO is a Delaware corporation with its principal place of business in Lewisville, Texas.
- b. Defendant National Union is a Pennsylvania insurance company with its principal place of business in New York, New York.

Thus, there is a complete diversity of citizenship between the parties to this lawsuit.

5. Based on the allegations in Plaintiff's Original Complaint, the amount in controversy exceeds \$75,000 (exclusive of interest and costs). Specifically, Plaintiff is seeking monetary relief of over \$1,000,000. *See* Ex. A, Original Petition at ¶ 43.

III. Timeliness of Removal

6. This removal was timely filed within thirty days of Defendant being served with a copy of Plaintiff's Original Petition. *See* 28 U.S.C. § 1446(b)(1) (notice of removal is timely where it is "filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter."). National Union was served with the Original Petition on April 6, 2022. *See* Ex. B. National Union files this Notice of Removal on May 3, 2022, less than thirty days after service.

7. The removal is also timely filed within one year of the commencement of the State Court Action. *See* 28 U.S.C. § 1446(c).

IV. Non-Waiver of Defenses

8. By filing this Notice of Removal, National Union does not waive any defenses that may be available to it and does not concede that the allegations in the Original Petition state a valid claim under any applicable law.

V. Propriety of Removal to this Court

9. The 431st Judicial District Court of Denton County, Texas, is located within the Eastern District of Texas, Sherman Division. Consequently, under 28 U.S.C. § 1441(a), this action is properly removed to this Court.

VI. Additional Procedural Matters

10. Upon filing this Notice of Removal, Defendant will provide written notification to Plaintiff DJO and will file a Notice of Filing of Removal, attaching a copy of this Notice of Removal, with the Clerk for the 431st Judicial District Court of Denton County, Texas.

11. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

CONCLUSION

Removal of this action is proper because the amount in controversy exceeds \$75,000, complete diversity exists, and Defendant National Union has timely removed the matter. The undersigned Defendant hereby removes this action from the State Court of Texas, Denton County, to this Honorable Court. Defendant prays that the United States District Court for the Eastern District of Texas, Sherman Division, accepts this Notice of Removal.

Respectfully submitted,

By: /s/ Robert S. Harrell

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**ATTORNEYS FOR NATIONAL UNION FIRE
INSURANCE COMPANY OF PITTSBURGH,
PA**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 3, 2022, a true and correct copy of the foregoing document was electronically filed and is being served on all counsel of record in accordance with the Federal Rules of Civil Procedure.

/s/ James B. Danford, Jr.

James B. Danford, Jr.